

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MAYDAY MOVIE PRODUCTIONS, LLC,

Plaintiff,

v.

SCOTT CHRISTIAN SAVA, *et al.*,

Defendant.

Case No. 2:19-cv-01053 RAJ

ORDER

This matter comes before the Court on Plaintiff MayDay Movie Productions LLC's ("MayDay") Motion for Temporary Restraining Order ("TRO"). Dkt. # 12. For the reasons below, the Court **GRANTS** MayDay's motion.

I. BACKGROUND

On or about September 21, 2016, MayDay entered into an agreement to provide loan financing for an upcoming motion picture, *Animal Crackers*. Dkt # 12 at 21; Dkt. # 12-1. The agreement was amended roughly two years later, on July 9, 2018, following an additional investment made by MayDay. Dkt # 12 at 21-22; Dkt. # 12-2. Under the July 9, 2018 amendment, Defendant Animal Crackers Movie, Ltd. assigned and transferred all copyright and ownership interest in and to *Animal Crackers* to MayDay until certain conditions were met, including repayment of the initial loan. *Id.* The assignment was subsequently recorded by the U.S. Copyright Office. Dkt. # 12-4.

Despite the assignment, and despite the fact that the loan has not yet been repaid, on July 13, 2018, Defendants Animal Crackers Movie, Ltd. and Scott Christian Sava

1 released *Animal Crackers* in China to 12,000 screens without any authorization from
2 MayDay. Dkt. # 12 at 22-23. A few months later, in November 2018, clips from *Animal*
3 *Crackers* were released its Facebook page for free public consumption, again without
4 MayDay's authorization. Dkt. # 12 at 24. According to Mayday, Defendant Sava, one of
5 the picture's producers, controls the content of the Facebook page. *Id.*

6 The dispute between the parties continued into 2019. On or about February 13,
7 2019, another post was made on the *Animal Crackers* Facebook page stating that the picture
8 would be released in other markets around August 30, 2019. Dkt. # 12 at 24. MayDay
9 further declares that on July 3, 2019, Sava informed investors that he hoped to sign
10 contracts "this week or next to get the film out" and that searches of imdb.com now show
11 *Animal Crackers* has distributors in various countries, including the United States, Russia,
12 Australia, South Africa, Argentina, and Bulgaria. *Id.* at 25-26. Defendants' conduct has
13 undermined MayDay's negotiating position with licensees and business partners who may
14 be interested in acquiring the distribution rights to *Animal Crackers*. *Id.* at 26.
15 Additionally, due to Defendants' actions, MayDay has been unable to inspect or control
16 the physical elements of the picture, which is currently in possession of a post-production
17 company. *Id.* at 27.

18 On July 8, 2019, MayDay filed a complaint in this Court alleging copyright
19 infringement and breach of contract. Dkt. # 1. On July 16, 2019, MayDay filed the instant
20 motion for temporary restraining order and served Defendants by personal service,
21 overnight mailing, and email. Dkt. # 12 at 33. Defendants have not provided a response
22 to MayDay's motion.

23 II. DISCUSSION

24 A TRO is "extraordinary remedy that may only be awarded upon a clear showing
25 that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S.
26 7, 22 (2008). To obtain a TRO, MayDay must show that (1) it is likely to succeed on the
27 merits, (2) it is likely to suffer irreparable harm in the absence of preliminary relief, (3) the

1 balance of equities tips in its favor, and (4) an injunction is in the public interest. *Stormans,*
2 *Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009).

3 Having reviewed the motion, the complaint, the submissions of the parties, the
4 relevant portions of the record, and the applicable law, the Court concludes that MayDay
5 has carried its burden to establish these elements. In particular, MayDay has submitted
6 sufficient evidence of its exclusive rights granted under the *Animal Crackers* copyright as
7 well as evidence of Defendants' past and potentially imminent distribution of *Animal*
8 *Crackers* to markets worldwide. See Dkt. # 12-2; Dkt. # 12-4. Accordingly, the Court
9 finds that MayDay is likely to prevail on its claim of copyright infringement. See *Vernor*
10 *v. Autodesk, Inc.*, 621 F.3d 1102, 1107 (9th Cir. 2010) (copyright infringement occurs
11 whenever someone "violates any of the exclusive rights of the copyright owner," including
12 the exclusive distribution right). As for irreparable harm, the declarations filed in support
13 of MayDay's motion show that Defendants or their agents may continue distributing
14 *Animal Crackers*, and otherwise block access to the film, thereby irreparably harming
15 MayDay's ability to exercise control over its distribution. See *Stuhlbarg Intern. Sales Co.,*
16 *Inc. v. John D. Brush and Co., Inc.*, 240 F.3d 832, 841 (9th Cir. 2001) ("Evidence of a
17 threatened loss of prospective customers or goodwill certainly supports a finding of the
18 possibility of irreparable harm."); *Sega Enterprises Ltd. v. MAPHIA*, 857 F. Supp. 679, 689
19 (N.D. Cal. 1994) (finding irreparable harm where the defendants' distribution of the
20 infringed work prior to its approved release subjected plaintiff to reputational and business
21 damage).

22 Lastly, the Court finds that the public interest embodied in the United States
23 Copyright Act, 17 U.S.C. §§ 101 et seq., as well as the equities in this matter warrant
24 granting a temporary restraining order for purposes of maintaining the status quo. See
25 *Disney Enterprises, Inc. v. VidAngel, Inc.*, 869 F.3d 848 (9th Cir. 2017) (noting that "the
26 public has a compelling interest in protecting copyright owners' marketable rights to their
27 work") (quoting *WPIX, Inc. v. ivi, Inc.*, 691 F.3d 275, 285–86 (2d Cir. 2012)).

1 Therefore, for the reasons above, the Court **GRANTS** MayDay's motion. In its
2 Motion for a TRO, MayDay also requests relief in the form of an order to show cause why
3 a preliminary injunction should not issue. Dkt. # 12. The Court concludes that this request
4 should be granted to the extent that Defendants must file a brief in opposition to MayDay's
5 request for a preliminary injunction on or before August 8, 2019, and MayDay may file a
6 reply on or before August 15, 2019.

7 **III. CONCLUSION**

8 For the reasons stated above, the Court **GRANTS** MayDay's motion. Accordingly,
9 the TRO is effective as of the date of this Order. Defendants must file a brief in opposition
10 to MayDay's request for a preliminary injunction on or before August 8, 2019, and
11 MayDay may file a reply on or before August 15, 2019. MayDay shall serve on
12 Defendants, or their registered agents, or their counsel, a copy of this Order.

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14 DATED this 18th day of July, 2019.

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18 The Honorable Richard A. Jones
19 United States District Judge
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